IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 137 OF 1988

The Commissioner of Income-tax,
Bombay City-II, Bombay. ...Applicant

V/s.

Shri R.J. Kolah. ...Respondent

Mr.Parag Vyas for Applicant.
None for Respondent.

CORAM : V.C. DAGA AND
A.S. AGUIAR, JJ.

DATED : JUNE 28, 2005.

P.C. :-

1. Heard. Perused reference proceedings.

2. Our attention was invited to the instructions issued by the Central Board of Direct Taxes, New Delhi, dated 27th March, 2000 wherein monetary limit for the department for filing reference to the High Court earlier fixed for Rs.50,000/- came to be revised and fresh instructions are issued by the Board to file references only in cases where tax effect exceeds

Rs.2,00,000/-.

3. This Court in the case of **Commissioner of Income Tax V/s. Camco Colour Co. reported in ITR Vol.254 (2002), Page 565** ruled that the above instructions are binding on the Department.

4. The above instructions dated 27th March, 2000 reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigation before High Courts and Supreme Court. The circular is binding on the Revenue. There is no justification to proceed with the decades old references having negligible tax effect.

5. Even otherwise, no steps are taken by the department to substitute the name of the deceased-respondent which itself is an additional factor which compels us not to answer the question referred.

6. We, thus, do not think it necessary to answer

the reference made to this Court for the Assessment Year 1981-82. Accordingly, reference stands returned unanswered with no order as to costs.

(V.C. DAGA, J.)

(A.S. AGUIAR, J.)